

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:05CR3039
v.)	4:05CR3091
)	
THOMAS E. MILLER,)	MEMORANDUM AND ORDER
)	
Defendant.)	
)	

A hearing on the defendant's competence to proceed to trial and/or sentencing in these cases was held before me this date pursuant to [18 U.S.C. 4241\(d\)](#). The defendant was present with counsel. Evidence, consisting of the report of the Forensic Evaluation conducted by the Federal Bureau of Prisons Federal Detention Center of Englewood, Colorado, was adduced. The report has been filed under seal. Although given the opportunity to adduce additional evidence, neither the government nor the defendant did so. Based on the evidence before the court,

IT THEREFORE HEREBY IS ORDERED:

1. The defendant is found by a preponderance of the evidence to be presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceeding against him or to assist properly in his defense.
2. Defendant is committed to the custody of the Attorney General for hospitalization and treatment in a suitable facility for such a reasonable period, not to exceed four months from the date of the defendant's arrival at the facility, as is necessary to determine whether there is a substantial probability that in the foreseeable future defendant will attain the capacity to permit the proceedings to go forward.
3. At the conclusion of four months from the date of the defendant's arrival at the facility, or alternatively, at such time that the director of the facility determines that the defendant has recovered to such an extent that he is able to

understand the nature and consequences of the proceedings against him and to assist properly in his defense, whichever first occurs, the director shall report to the court on the mental status of the defendant. Once received, the clerk shall file such report under seal, providing copies only to counsel for the parties. A hearing shall be promptly scheduled thereafter pursuant to [18 U.S.C. 4241\(d\) and \(e\)](#) and [18 U.S.C. 4247\(d\)](#) to determine the defendant's competency and the applicability of [18 U.S.C. 4241\(d\)\(2\)](#), [18 U.S.C. 4246](#) and/or [18 U.S.C. 3141](#), et seq.

Dated June 9, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester

United States Magistrate Judge